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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THE 16TH DAY OF JUNE 1998

BEFORE

THE HON'BLE MR.JUSTICE G.C.BHARUKA

WRIT PETITION NO.15493/98

BETWEEN:

John D.Souza,
s/o.late Louis D Souza,
r/a.No.1827, 7th Main,
E Block, Rajajinagar,
II Stage, Bangalore-10.

..PETITIONER

(By Smt.Radha, Adv.)

AND:

1. The Managing Director,
K.S.R.T.C.,
Central Office,
K.H.Road, Shanthinagar,
Bangalore.
2. The Chief Traffic Manager,
K.S.R.T.C., Central Offices,
Bangalore-27.
3. The Divisional Controller,
Bangalore Central Division,
Kempe Gowda Bus Station,
Subhashnagar,
Bangalore-9.

..RESPONDENTS.

(By Sri L.Govindaraj, Adv.)

This writ petition is filed under Article 226 of the Constitution praying this Court to quash the transfer order dated 15.5.98 passed by R-2 and the relieving order dt.15.5.98 by R-3 vide Annexure-0 and P respectively.

This petition coming on for preliminary hearing this day, the Court made the following:

ORDER

The petitioner is a conductor in the respondent-Corporation. He is aggrieved by the order dated 15.5.1998 passed by the Chief Traffic Controller transferring the petitioner from Bangalore Central Division to the Gulbarga Division and relieving him from the afternoon of that very day to enable him to report at Gulbarga Division, Gulbarga.

2. Smt.R.Radha, learned Counsel for the petitioner, has impugned the transfer order on the ground of mala fide as also on the ground of lack of competence on the part of the Chief Traffic Controller. Her submission is that the petitioner is being repeatedly harassed by the superior officers because he had been highlighting their corrupt practices. She has also pleaded that the petitioner is facing two departmental proceedings for alleged misconduct and if he is posted at Gulbarga, great hardship will be caused to the petitioner in attending the proceedings. It ^{has} ~~has~~ lastly been pleaded that the petitioner is a married person and his posting to a far off place will cause disturbance in the family life since his wife is also in service at Bangalore.

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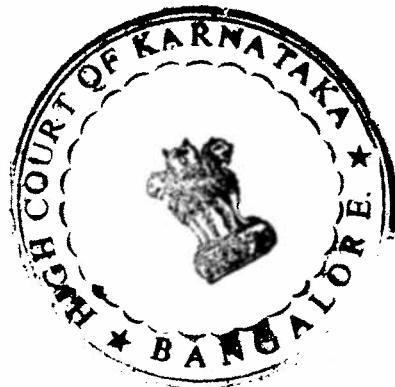
3. On the last occasion when I heard the matter in detail I found it advisable to ^{get} ~~take up~~ the matter examined by the Managing Director of the Corporation. Accordingly the petitioner was directed to file a representation before the Managing Director so that he can personally enquire into the allegations of mala fide and consider the difficulties pointed out by the petitioner and pass appropriate orders. Pursuant to the said direction, on examining the representation of the petitioner, the Managing Director called for a detailed report and has passed an order directing the transfer of the petitioner from Bangalore to Davanagere instead of Gulbarga as originally directed. The journey from Bangalore to Davanagere is only ^{of} ~~about~~ five hours. The original file in which the Managing Director passed the order has been produced for my perusal.

4. The statement of objection has been filed on behalf of the respondents, which shows that the petitioner is facing departmental enquiries at Bangalore but it has been stated that as per the service rules the petitioner will be entitled to attend the proceedings without any hindrance from the respondents and for attending those proceedings he will be deemed to be on duty and entitled to necessary allowances. Instances have also been cited to show that his presence in the Bangalore Division is causing serious administrative

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problems because of his defiant attitude and therefore the administrative exigencies require his transfer from that place even as a permissible exception to the general rule regarding non-transfer from one division to another. No doubt it has also been stated that the petitioner's wife is presently working as a Junior Assistant in B.M.T.C., but for a long she was not cohabiting with him since some matrimonial case was pending between the two. Smt.Radha, learned Counsel for the petitioner, states that the matrimonial case has concluded in compromise. In my opinion this fact is not very material. Even if the petitioner's wife is working at Bangalore, that itself cannot be a ground for non-transfer particularly when exigencies of the administration requires the same.

5. In the said view of the matter no ground is made out to interfere with the impugned order. Writ petition is accordingly dismissed.



Sd/-
JUDGE

sgs/